

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
EL PASO DIVISION

BRANDON CALLIER,

Plaintiff,

vs.

CREDIT MASTER, LLC d/b/a COMMERCIAL
LENDING USA, a Virginia Limited Liability
Company,

Defendants.

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Case No. EP22CV0192

MOTION TO SET ASIDE FINAL JUDGMENT
PURSUANT TO RULE 60(b)(3)

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW, CREDIT MASTER LLC, and moves the Court pursuant to Rule 60(b)(3) to set aside the default judgment entered by the clerk on August 17, 2022.

FACTS

1. **CREDIT MASTER LLC** contracted its undersigned attorney on August 2, 2022, who immediately contacted the Plaintiff, BRANDON CALLIER, to ask for an extension of time within which to respond to the lawsuit. Mr. Callier agreed to allow counsel 21 days to respond to the suit and that he (Callier) would contact the clerk to set aside the Entry of Default. (See Exhibit A, attached hereto). Obviously, the clerk was never asked to set aside the Entry of Default and on August 12th, Plaintiff actually filed a Motion for Default Judgment with an Affidavit.

2. In addition to the foregoing, the Vice President and CFO of CREDIT MASTER LLC sent a letter to the Judge trying to extend the time to allow him to find a lawyer (Exhibit B).
3. The Affidavit in Support of Request for Default Judgment for Sum Certain and Statement of Amount Due states in Paragraph 4 “Defendant did not answer or otherwise appear in the above-entitled action and time to do so has lapsed” while literally true no mention is made of the agreement reached with undersigned counsel as reflected above in Paragraph 1 and Exhibit A.

ARGUMENT

The actions of the Plaintiff as mentioned in paragraph 1 above prevented the Defendant from filing an answer so that the merits of the Plaintiff’s claims could be tried. The Plaintiff’s actions substantially interfered with the Defendant’s ability to fully and fairly prepare for and proceed to trial. **Roger Edwards, LLC v. Fiddes & Sons, Ltd.**, 427 F. 3d 129, 134 (1st Cir. 2005).

The Defendant has meritorious defenses to the Plaintiff’s claims. Defendant uses a landline and cannot text with it and cannot use it with a rotary dialer. The phone to which any calls by Defendant were made is a business phone and is listed by the Plaintiff for:

- a. Aero Financial LLC
- b. Ten-X
- c. Attorney Brandon Callier
- d. Granite Express
- e. Gonna Keep on Trucking, LLC

Calls to business lines are not prohibited. The only prohibition is that the caller cannot tie up more than one business line at a time. 47 U.S. Code § 227 (b)(1)((D). Since Plaintiff only has one line, Defendant cannot tie up more than that one line at any given time.

Respectfully submitted,



ROBERT A. SKIPWORTH

Attorney for Defendant

Bar No. 18473000

310 N. Mesa, Suite 600

El Paso, TX 79901

915/533-0096 Fax 915/544-5348

CERTIFICATE OF SERVICE

I, certify that on the 29th day of August, 2022, a true and correct copy of the foregoing document was served on Brandon Callier, Plaintiff, Pro Se, 6336 Franklin Trail Drive., El Paso, TX 79912.

/s/ Robert A. Skipworth

ROBERT A. SKIPWORTH

June 29, 2022

To,

Honorable Judge David Guaderrama

United States District Court, Western District of Texas

525 Magoffin Avenue, El Paso, TX 79901

CC: Mr. Greg Duenas, Courtroom Deputy, Greg.Duenas@txwd.uscourts.gov T: (915) 534-6725, ext. 1509

Ms. Kathi Supnet, Court Reporter, Kathi_Supnet@txwd.uscourts.gov T: (915) 534-6725, ext. 1573

REF: BRANDON CALLIER VS CREDIT MASTER, LLC Civil Action No EP22CV0192

Dear Sir/ Madam,

I am the Vice President and CEO for Credit Master, LLC. We have received the above case notification on 11th of June. After our company meeting, we have contacted with our Attorney Mr. James Towarnicky, who was in vacation last week. He has just informed me that this case is not under his jurisdiction.

I have emailed to Mr. Greg Duenas and Ms. Kathi Supnet on June 27th and requested for additional time. We need 60 days' time to review the file by local Texas attorney and take necessary steps to defend our position.

Please allow us the extension and send me the confirmation by email at funding@commerciallendingusa.com or mail in the following address. Again, I really appreciate your understanding and cooperation.

Sincerely,



Abu Haq

Credit Master, LLC

3112 Harrison Hollow Lane

Herndon, VA 20171

EXHIBIT A

Subject: **Your suit against Credit Master**
Date: 8/2/2022 2:57:46 PM Mountain Standard Time
From: rskipworth@aol.com
To: callier74@gmail.com
Cc: Samcmb@gmail.com

Dear Mr Callier: This is to confirm our conversation today allowing my client an extension of 21 days to respond to the suit filed in the US District Court for the Western District of Texas, El Paso Division cause #EP22CV0192 styled Brandon Callier v. Credit Master LLC. You also indicated you would rescind the notice of default entered with the clerk. Thank you for your courtesies.

*Robert A. Skipworth
Attorney/Mediator
310 N. Mesa Ste. 600
El Paso, Texas 79901*

*915-533-0096 phone
915-544-5348 fax*